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10/826,223

04/17/2004

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06/08/2007

EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

06/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/826,223

Applicant(s)

SACCO ET AL.

Examiner

Timothy M. Ayres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/27/07 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Figure 3 of this application shows the sheets attached together via magnetic material as substantial claimed in claim 1. Figure 4 of this application shows the sheets spaced apart by an angle as claimed in claim 8. It is unclear how the sheets can be spaced

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apart and are still able to be magnetically adhered together securely enough to allow the sheets to rotate as a unit.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-4, and 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Regarding claim 1, it is unclear if "at least a portion" recited in line 4 is the same as "at least portions" as recited lines 11 and 13.

Claim Rejections - 35 USC § 103

7. Claims 1, 2, 4, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,326,832 to Baily in view of US Patent 3,228,133 to Baermann and US Patent 4,852,282 to Selman. Baily teaches a cabinet (1) that has a door (2) with a plurality of rigid sheet material or pages (5) for display. The pages (5) have hinge tubes/mechanism (6,9) integral formed such that a hinge pin (8) insertable therein. Note that it has been held that the term "integral is sufficiently broad to embrace constructions united by such means as fasteners and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973). The hinge pin (8) is attached to the cabinet with a flange housing (7) by being inserted therein. The hinge mechanism (9) is offset at angles as seen in figure 2. Baily does not expressly disclose the pages being attachable by a

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magnet, portions of the sheets having magnetic material therein, and the surface being erasable for non-permanent markers. Baermann teaches a board (A) comprised of magnetic material (10), a support plate (30) to provide stiffness, and a coating (60) as a decorative surface. The board (A) constructed so that letters can be displayed on its surface in a even horizontal line. As seen in figure 3A, the magnetic material (10) has north (22) and south (20) poles in an alternating pattern. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the display apparatus by constructing the boards of the construction as taught by Baermann to allow magnetic letters to be aligned and display. Baily in view of Baermann does not expressly disclose the at least a surface with a erasable surface for non-permanent markers. Selman teaches a calendar for a refrigerator that has a surface adapted for erasably receiving writing ink thereon. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheet/pages of Baily in view of Baermann by making the coating surface of erasable material for non-permanent markers as taught by Selman to allow the surface to be reusable.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,326,832 to Baily in view of US Patent 3,228,133 to Baermann and US Patent 4,852,282 to Selman as applied to claims 1, 2, 4, 6, and 8 above, and further in view of US Patent 752,463 to Morris. Baily in view of Baermann and Selman discloses every element as claimed and discussed above except tab sections. Morris teaches a cabinet with pages (E) with tab sections on the edges to allow a user to access the correct page

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of the first aid manual. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheets of Baily in view of Baermann and Selman by adding tabs as taught by Morris to allow faster and easier access to the correct page.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 1,326,832 to Baily in view of US Patent 3,228,133 to Baermann and US Patent 4,852,282 to Selman as applied to claims 1, 2, 4, 6, and 8 above, and further in view of US Patent 1,881,636 to Johnson. Baily in view of Baermann and Selman discloses every element as claimed and discussed above except the pages includes a chalkboard surface. Johnson teaches a portable chalkboard with panels that are hingable together. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify a page of Baily in view of Baermann and Selman by making a portion of the coating out of a chalkboard material as taught by Johnson to enable writing indicia on it.

10. Claims 1, 2, 4, 6, 8-10, 12-14, 16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,089,745 to Postula in view of US Patent 1,326,832 to Baily, US Patent 3,228,133 to Baermann, and US Patent 4,852,282 to Selman. Postula teaches a stationary cabinet (10) having shelving (19) and a door(18). A pivotal shelving unit (20) is located between the sleeves (19) and the door. Postula does not expressly disclose a plurality of planar pages as claimed. Baily teaches a

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cabinet (1) that has a door (2) with a plurality of rigid sheet material or pages (5) for display. The pages (5) have hinge tubes/mechanism (6,9) integral formed such that a hinge pin (8) insertable therein. Note that it has been held that the term "integral is sufficiently broad to embrace constructions united by such means as fasteners and welding. *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973). The hinge pin (8) is attached to the cabinet with a flange housing (7) by being inserted therein. The hinge mechanism (9) is offset at angles as seen in figure 2. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the cabinet of Postula by replace rotating unit (20) as taught by Baily to display items such as children's work, recipe, or calendars. Postula in view of Baily does not expressly disclose the pages being attachable by a magnet, portions of the sheets having magnetic material therein, and the surface being erasable for non-permanent markers. Baermann teaches a board (A) comprised of magnetic material (10), a support plate (30) to provide stiffness, and a coating (60) as a decorative surface. The board (A) constructed so that letters can be displayed on its surface in a even horizontal line. As seen in figure 3A, the magnetic material (10) has north (22) and south (20) poles in an alternating pattern. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the display apparatus by constructing the boards of the construction as taught by Baermann to allow magnetic letters to be aligned and display. Postula in view of Baily and Baermann does not expressly disclose the at least a surface with a erasable surface for non-permanent markers. Selman teaches a calendar for a refrigerator that has a surface adapted for erasably receiving writing ink thereon. At the time of the

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invention it would have been obvious for a person of ordinary skill in the art to modify the sheet/pages of Postula in view of Baily and Baermann by making the coating surface of erasable material for non-permanent markers as taught by Selman to allow the surface to be reusable.

11. Claims 3 and 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,089,745 to Postula in view of US Patent 1,326,832 to Baily, US Patent 3,228,133 to Baermann, and US Patent 4,852,282 to Selman as applied to claims 1, 2, 4, 6, 8-10, 12-14, 16, and 18-20 above, and further in view of US Patent 752,463 to Morris. Baily in view of Baermann and Selman discloses every element as claimed and discussed above except tab sections. Morris teaches a cabinet with pages (E) with tab sections on the edges to allow a user to access the correct page of the first aid manual. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the sheets of Postula in view of Baily, Baermann, and Selman by adding tabs as taught by Morris to allow faster and easier access to the correct page.

12. Claims 7 and 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,089,745 to Postula in view of US Patent 1,326,832 to Baily, US Patent 3,228,133 to Baermann, and US Patent 4,852,282 to Selman as applied to claims 1, 2, 4, 6, 8-10, 12-14, 16, and 18-20 above, and further in view of US Patent 1,881,636 to Johnson. Postula in view of Baily, Baermann, and Selman discloses every element as claimed and discussed above except the pages includes a chalkboard surface. Johnson

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teaches a portable chalkboard with panels that are hingable together. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify a page of Postula in view Baily, Baermann, and Selman by making a portion of the coating out of a chalkboard material as taught by Johnson to enable writing indicia on it.

13. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,089,745 to Postula in view of US Patent 1,326,832 to Baily, US Patent 3,228,133 to Baermann, and US Patent 4,852,282 to Selman as applied to claims 1, 2, 4, 6, 8-10, 12-14, 16, and 18-20 above, and further in view of US Patent 2,527,132 to Jackson. Postula in view of Baily, Baermann, and Selman discloses every element as claimed and discussed above except the hinge pin spring loaded. Jackson teaches rotating shelves with a shaft/hinge pin that is received in a flange housing (24) and is spring loaded (16). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the apparatus of Postula in view of Baily, Baermann, and Selman by using the mounting mechanism that is spring loaded as taught by Jackson to make it easy to be removed or added in as a complete unit.

Response to Arguments

14. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

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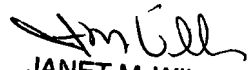
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA
6/04/07



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PRIMARY EXAMINER
10/826,223